

REMARKS

This Response, filed in reply to the Office Action dated January 15, 2009, is believed to be fully responsive to each point of rejection raised therein. Accordingly, reconsideration and allowance are respectfully requested.

I. Summary of the Office Action

Claims 1-14 are pending in the application.

Claims 1-14 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly omitting essential structural cooperative relationships of elements.

Claims 1, 5-7, 9, 12, and 14 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Oosthoek *et al.* (US Patent Pub. No. 2002/0156599; hereinafter “Oosthoek”).

Claims 2-4, 10, and 11 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Oosthoek, in view of Bolding *et al.* (US Patent No. 7,272,651; hereinafter “Bolding”).

Claims 8 and 13 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Oosthoek, in view of Mohaban *et al.* (US Patent No. 6,788,647; hereinafter “Mohaban”).

II. Rejections Under 35 U.S.C. § 112, second paragraph

The Examiner alleges that claims 1-14 omit essential structural cooperative relationships of elements. In particular, the Examiner indicates that the specification does not disclose what the recited “means for receiving,” “control means,” and “means for communicating” comprise (see Office Action at page 2). Applicant respectfully disagrees.

Applicant respectfully submits that claims 1-14 are patent-eligible under 35 U.S.C. § 112 for the reasons submitted in the Amendment filed September 9, 2008. Applicant further notes that the specification explicitly states exemplary embodiments of the above quoted means.

For example, with respect to “control means,” the specification discloses: “under the 3GPP standards, the control device may be a proxy call session control function (P-CSCF) as described in the technical specification ‘3GPP TS 23.225’” (specification at page 7, ll. 2-6).

Furthermore, with respect to “means for receiving” and “means for communicating,” the specification discloses: “In one embodiment of the invention, the admission controller AC and the control device CD may communicate by means of the COPS protocol as defined in RFC 2748 of the Internet Engineering Task Force (IETF)” (specification at page 7, ll. 7-11).

In view of the disclosure as a whole, and further in view of the specific portions referenced above, Applicant respectfully submits that the disclosure of structure is express, even though not word-for-word. Even if the support is not considered to be express by the Examiner, it is certainly at least “implicit or inherent in the specification [because] it would have been clear to those skilled in the art what structure . . . corresponds to the means-[]plus function claim limitation[s].” (*See* MPEP 2181(II) and *In re Dossel*, 115 F.3d 942, 946-47 (Fed. Cir. 1997)). Accordingly, Applicant respectfully requests the Examiner to withdraw the rejection under 35 U.S.C. § 112, second paragraph.

III. Cited Art Rejections

The Examiner indicates that the arguments submitted in the Amendment filed September 9, 2008 have been considered but are deemed not persuasive (Office Action at page 7; Applicant notes that the Examiner refers to the Amendment filed October 31, 2008, but such Amendment

was supplemental to the Amendment filed September 9, 2008, and did not include arguments).

Applicant respectfully submits the following arguments in traversal of the Examiner's rejection.

With respect to **claim 1**, Oosthoek does not disclose or suggest, at least: “means for receiving a plurality of quality of service requests that each correspond to **one of a plurality of microflows**; ... and means for correlating the quality of service requests so as to define at least **one set of a plurality of correlated microflows**; wherein the control means effects said control of said elements of said data network **only once** for the quality of service requests **of each said set**; and each said set comprises a plurality of microflows **whose corresponding quality of service requests are correlated**”, as recited therein.

Oosthoek discloses a system which combines features of RSVP (which manages QoS per flow) and Diffserv (which manages QoS per aggregate) to manage QoS reservations within a network. In order to leverage the advantages of each protocol, Oosthoek uses RSVP management at the ingress and egress ports, and Diffserv management at the intermediate nodes (*see* ¶ 20). Thus, the system supports dynamic per flow QoS management between endpoints (*i.e.* Hosts 12 and 14 of FIG. 1) by converting RSVP (per flow) QoS requests into Diffserv (per aggregate) QoS request at the ingress point of the network, and converting the Diffserv QoS request back into an RSVP QoS request at the egress point of the network. Accordingly, within the network, the interior nodes do not manage/track individual flows and simply operate as if under a Diffserv management scheme.

The Examiner alleges that in Oosthoek, “although the microflows are tracked individually, the interior nodes only see the reservation requests which specifies the aggregated state. Therefore, the interior nodes are controlled only once for the set of microflows covered by the aggregated reservation request.” Office Action at page 8. This is simply incorrect.

Although, in Oosthoek, the interior nodes do not specifically manage/track individual flows, when a new flow reaches the ingress port of the network, the ingress port converts the per flow QoS related to the new flow into a per aggregate QoS request, and sends the request to the interior nodes. Accordingly, contrary to the Examiner's position, interior nodes are controlled **more than once** for the set of microflows covered by the aggregation. Interior nodes receive QoS requests every time a flow reaches the ingress port and forces a change in the aggregated state.

Thus, to the extent the Examiner relies on the argument that, in Oosthoek "the interior nodes are controlled only once for the set of microflows covered by the aggregated reservation request," to reject claim 1 (Office Action at page 7), Applicant respectfully submits that Oosthoek does not disclose or suggest claim 1.

The Examiner further alleges that "Given [claim 1's] broadest reasonable interpretation ... a scenario could reasonable be contemplated wherein the elements have to be controlled again should another quality of service request be received for a newly received set of microflows. This scenario is anticipated by Oosthoek" (Office Action at page 7). Even assuming, arguendo, that the Examiner's assertion is correct, Applicant respectfully submits Oosthoek does not disclose or suggest claim 1, notwithstanding the Examiner's assertion.

Claim 1 recites that "the control means effects said control ... **only once** for the quality of service requests **of each said set.**" Furthermore, "each set comprises a plurality of microflows whose corresponding quality of service requests are correlated."

The Examiner, in making this rejection, posited a scenario in which a "set" of microflows is newly received. The Examiner's scenario does not implicate the patentability of any of the claims, because a new "set" of microflows has to be interpreted in accordance with the express

language of the claim. Each set of microflows is independent. The claim does not require that the control is performed only once for all time and forever, including new sets and flows.

In other words, under the scenario contemplated by the Examiner, the new “set” of microflows would trigger control means to effect control **only once** for the quality service requests **of the new set** of microflows. Previously serviced sets would have still been controlled “only once for the quality of service requests of each set”, as recited in claim 1. Thus, the scenario contemplated by the Examiner does not implicate the patentability of claim 1 vis-a-vis the teachings of Oosthoek. Oosthoek clearly lacks the above-mentioned requirements of independent claim 1 and cannot be said to anticipate nor render obvious the claim.

With respect **independent claims 9 and 14 and dependant claim 12**, Applicant respectfully submits that these claims are also patentable over Oosthoek for at least the same or similar reasons as those above regarding claim 1.

Applicant therefore respectfully requests the Examiner to withdraw this rejection of claims 1, 9, 12/9, and 14.

IV. Claim Rejections under 35 U.S.C. § 103

Claims 2-4 and 10-11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Oosthoek (U.S. Publication No. 2002/0156599) in view of Bolding et al. (U.S. Patent No. 7,272,651). Applicant respectfully traverses the rejection.

Above, Applicant pointed out that Oosthoek is deficient vis-à-vis independent claims 1 and 9. Applicant respectfully submits that Bolding fails to compensate for the deficiencies of Oosthoek. Even taken for what they would have meant as a whole to an artisan of ordinary skill, the combined teachings of these two references would not have (and could not have) led the

artisan of ordinary skill to the subject matter of independent claims 1 and 9, much less dependent claims 2-4 and 10-11.

Therefore, claims 2-4 and 10-11 would not have been obvious within the meaning of 35 U.S.C. §103(a). Additional, untaught modifications would have been necessary.

Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claims 2-4 and 10-11.

Claims 8 and 13 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Oosthoek (U.S. Publication No. 2002/0156599) in view of Mohaban et al. (U.S. Patent No. 6,788,647). Applicant respectfully traverses the rejection.

Above, Applicant pointed out that Oosthoek is deficient vis-à-vis independent claims 1 and 9. Applicant respectfully submits that Mohaban fails to compensate for the deficiencies of Oosthoek. Even taken for what they would have meant as a whole to an artisan of ordinary skill, the combined teachings of these two references would not have (and could not have) led the artisan of ordinary skill to the subject matter of independent claims 1 and 9, much less dependent claims 8 and 13.

Therefore, claims 8 and 13 would not have been obvious within the meaning of 35 U.S.C. §103(a). Additional, untaught modifications would have been necessary.

Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claims 8 and 13.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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